

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 0-902-402-048
[REDACTED]	)	
Petitioner.	)	
	)	DECISION
	)	

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[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated July 1, 2015, proposing tax and interest for taxable year 2014 in the total amount of \$377.35. Petitioner disagreed with Taxpayer Accounting’s determination that [Redacted] he could not claim the dependent exemption deduction for [Redacted]. The Tax Commission, having reviewed the file, hereby issues its decision.

**BACKGROUND**

Petitioner timely filed his 2014 Idaho individual income tax return claiming a dependent exemption deduction for [Redacted] During the processing of the individual income tax returns for taxable year 2014, the Tax Commission received another individual income tax return that also claimed a dependent exemption deduction for [Redacted] Taxpayer Accounting requested additional information from Petitioner. Petitioner responded to Taxpayer Accounting’s questions and provided a document that showed Petitioner accepted an appointment of guardianship of [Redacted] on November 4, 2014. Petitioner stated that [Redacted] lived with him for 200 days in 2014. Petitioner also provided another document, dated January 5, 2015, showing that he was appointed temporary co-guardian of [Redacted]

Taxpayer Accounting reviewed the information Petitioner provided and determined Petitioner was not entitled to the dependent exemption deduction for [Redacted] Taxpayer Accounting changed Petitioner’s 2014 Idaho income tax return and sent him a Notice of Deficiency Determination. Petitioner protested Taxpayer Accounting’s determination.

Taxpayer Accounting referred the matter for administration review and the Tax Commission sent Petitioner a letter discussing the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner requested a telephone hearing which was held [Redacted] Petitioner provided much of the same information he submitted to Taxpayer Accounting. Petitioner stated [Redacted] came to live with him on June 1, 2014. [Redacted] lived with Petitioner until [Redacted] mother took [Redacted] from Petitioner's house by force. Petitioner stated [Redacted] was gone for two weeks wherein [Redacted] stayed with [Redacted] grandparents who lived down the street from Petitioner. It was sometime late October or early November when [Redacted] by the side of the road, in the middle of the night, that Petitioner took [Redacted] back into his home and he decided to get guardianship of [Redacted] Petitioner stated [Redacted] has been with him ever since that night.

#### **LAW AND ANALYSIS**

The sole issue is whether Petitioner is entitled to the dependency exemption deduction for [Redacted] section 151(c) allows a taxpayer a deduction of the exemption amount for each dependent as defined in IRC section 152.

IRC section 152(a) defines a dependent as either a "qualifying child" or a "qualifying relative." A qualifying child is an individual who 1) bears a certain relationship to the taxpayer, 2) has the same principal place of abode as the taxpayer for more than one-half of the taxable year, 3) meets certain age requirements, 4) has not provided over one-half of the individual's own support for the taxable year, and 5) has not filed a joint return with the individual's spouse for the taxable year. *See* IRC section 152(c)(1) through (3).

A qualifying relative is an individual 1) who bears a certain relationship to the taxpayer, 2) whose gross income for the taxable year is less than the exemption amount, 3) with respect to

whom the taxpayer provides over one-half of the individual's support for the taxable year, and 4) who is not a qualifying child of the taxpayer or of any other taxpayer for the taxable year. *See* IRC 152(d)(1) and (2).

In this case [Redacted] does not bear the necessary relationship to Petitioner to be a qualifying child; no blood relationship, marriage relationship, not an adopted child, or a foster child. Therefore [Redacted] cannot be a qualifying child for Petitioner. As for a qualifying relative [Redacted] could meet the relationship test except for the fact that [Redacted] is not considered a member of Petitioner's household. To qualify as a dependent by being a member of Petitioner's household [Redacted] must have been a member of the household for the entire tax year of Petitioner. Petitioner stated [Redacted] came to live with him on June 1, 2014, less than the entire tax year of 2014. Consequently [Redacted] cannot be a qualifying relative for Petitioner for tax year 2014.

### **CONCLUSION**

Deductions are a matter of legislative grace and taxpayers bear the burden of proving they are entitled to the deductions claimed. INDOPCO, Inc. v. Commissioner, 503 U.S. 79, 84, 112 S. Ct. 1039, 117 L.Ed.2d 226 (1992); New Colonial Ice Co. v. Helvering, 292 U.S. 435, 440, 54 S. Ct. 788, 78 L. Ed. 1348 (1934). Since [Redacted] was not a qualifying child or a qualifying relative of Petitioner for tax year 2014, Petitioner cannot claim the dependent exemption deduction for [Redacted].

Furthermore, because Petitioner is not entitled to the dependent exemption, Petitioner is also not entitled to claim an additional grocery credit for [Redacted] per Idaho Code section 63-3024A.

THEREFORE, the Notice of Deficiency Determination dated July 1, 2015, and directed to [Redacted] is AFFIRMED.

IT IS ORDERED that Petitioner pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2014	\$371	\$15	\$386

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the Petitioner's right to appeal this decision is enclosed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2016.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2016, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.  
  
\_\_\_\_\_